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## Interview Summary

Application No.

10/670,941

Applicant(s)

HEIMBROCK ET AL.

Examiner

Teri P. Luu

Art Unit

3673

All participants (applicant, applicant's representative, PTO personnel):

(1) Teri P. Luu.

(3) \_\_\_\_\_.

(2) Mark Newman.

(4) \_\_\_\_\_.

Date of Interview: 30 June 2004.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 37-40.

Identification of prior art discussed: Tekulve.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.



**TERI PHAM LUU  
PRIMARY EXAMINER**

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Claims amended to recite that the control assembly initially raise the second section to the raised position and then lower the second section to the lowered position as the first section is raised from the lowered position to the raised position. At first glance, it appears that Tekulve does not have this function, thus the claims would be allowable over Tekulve. However, a final determination will be made upon a detailed examination of the Tekulve patent in view of applicant's remarks..

**BARNES & THORNBURG**

ONLY

JUN 30 2004

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

*Customer No.:* 23643  
*Art Unit:* 3673  
*Confirmation No.:* 2045  
*Application No.:* 10/670,941  
*Invention:* PATIENT SUPPORT APPARATUS  
HAVING AUTO CONTOUR  
*Inventor:* Richard H. Heimbrock  
*Filed:* September 25, 2003  
*Attorney*  
*Docket:* 7175-73312  
*Examiner:* Luu, Tuyet Phuong Pham

**AMENDMENT**

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated April 6, 2004, please amend the subject application as provided below, and consider the following remarks.

**Amendments to the Specification** begin on page 2 of this paper.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 3 of this paper.

**Remarks** begin on page 5 of this paper.

Application No. 10/670,941 (Filed September 25, 2003)

Reply to Office Action dated April 6, 2004

**AMENDMENTS TO THE SPECIFICATION**

Please replace the paragraph beginning at page 1, line 4, with the following rewritten paragraph:

-- This is a continuation of U.S.S.N. 10/119,470 filed April 10, 2002, now U.S. Patent No. ~~x,xxx,xxx~~ 6,643,873. 10/119,470 claims the benefit of U.S. Provisional Patent Application, Serial No.60/287347, filed on April 27, 2001, and entitled "Patient Support Apparatus Having Auto Contour". --

**AMENDMENTS TO THE CLAIMS**

This listing of claims below will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1-36.(canceled)

37.(currently amended)      A patient support apparatus comprising  
a frame,

a deck coupled to the frame and configured to support a patient, the deck including a first section coupled to the frame and movable between a lowered position and a raised position and a second section coupled to the frame and movable between a lowered position and a raised position,

a control assembly coupled to the first section and to the second section, the control assembly being configured to initially raise the second section to the raised position and then lower the second section to the lowered position as the first section is raised from the lowered position to the raised position, and

a drive coupled to the second section and operable independent of the control assembly to raise and lower the second section.

38.(original)    A patient support apparatus comprising  
a frame,

a deck coupled to the frame and configured to support a patient, the deck including a first section coupled to the frame for movement from a lowered position to a raised position through an intermediate position therebetween, the deck including a second section coupled to the frame for movement between a raised position and a lowered position,

a control assembly coupled to the first section and coupled to the second section, the control assembly being configured to move the second section from the lowered position to the raised position as the first section moves from the lowered position to the intermediate position, and the control assembly being configured to move the second section from the raised position to the lowered position as the first section moves from the intermediate position to the raised position, and

a drive coupled to the second section and operable independent of the control assembly to raise and lower the second section.

39.(currently amended) A patient support apparatus comprising:

a frame,

a deck coupled to the frame, the deck including a back section, a seat section and a thigh section, the back, seat and thigh sections being longitudinally spaced apart and transversely extending,

the back section being movable relative to the frame between a lowered position and a raised position through an intermediate position therebetween,

the thigh section being movable relative to the frame between a lowered position and a raised position,

a first thigh section drive coupled to the back section and the thigh section such that the thigh section moves from the lowered position to the raised position as the back section moves from the lowered position to the intermediate position and such that the thigh section moves from the raised position to the lowered position as the back section moves from the intermediate position to the raised position, and

a second thigh section drive coupled to the thigh section and operable independent of the back section to raise and lower the thigh section.

40.(currently amended) A patient support apparatus comprising:

a frame,

a deck coupled to the frame, the deck including a back section, a seat section and a thigh section, the back, seat and thigh sections being longitudinally spaced apart and extending transversely with at least the back and thigh sections being movable relative to the frame between respective lowered positions and raised positions,

a first thigh section drive coupled to the back section and the thigh section to initially raise the thigh section to the raised position and then lower the thigh section to the lowered position in response to movement of the back section away from a the lowered position to the raised position, and

a second thigh section drive coupled to the thigh section and operable independent of the back section to raise and lower the thigh section.

41-60.(canceled)



**REMARKS**

Claims 37-40 remain in this application. Claims 37, 39 and 40 have been amended.

The specification has been amended to update a cross reference to a related application.

Reconsideration of the rejection of claims 37-40 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,097,940 to Tekulve et al. ("Tekulve") is requested. It is believed that amended claims 37-40 are not anticipated by Tekulve at least for the reasons given below.

Regarding claim 37, Tekulve does not disclose or suggest in any way, shape or form "a control assembly coupled to the first section and to the second section, the control assembly being configured to initially raise the second section to the raised position and then lower the second section to the lowered position as the first section is raised from the lowered position to the raised position." Instead, Tekulve's automatic contouring mechanism 80 is configured to raise the thigh section 38 from a lowered position (about 0°) to a raised position (a maximum of 18° to 20°) as the back section 34 is raised from a lowered position (about 0°) to an intermediate position (about 35°). However, Tekulve's automatic contouring mechanism 80 is not configured to lower the thigh section 38 from the raised position (about 18° to 20°) to the lowered position (about 0°) as the back section 34 is raised from the intermediate position (about 35°) to a raised position (a maximum of 60°). As stated by Tekulve's at column 6, lines 14 et seq., "The length of plates 86 and locking links 98 are arranged to provide optimum thigh section elevation conjointly with elevation of the head section 34. It has been found desirable to provide a maximum of 18° to 20°. *This maximum is reached at an inclination of the head end section 34 of about (35°). The head section 34 may be elevated to a maximum of (60°), however, no appreciable change in thigh section elevation occurs.*" (*Italics provided.*)

Regarding claim 38, Tekulve does not disclose or suggest in any way, shape or form "a control assembly coupled to the first section and coupled to the second section, the control assembly being configured to move the second section from the lowered position to the raised position as the first section moves from the lowered position to the intermediate position, and the control assembly being configured to move the second section from the raised position to the lowered position as the first section moves from the intermediate position to the raised position."

Regarding claim 39, Tekulve does not disclose or suggest in any way, shape or form "a first thigh section drive coupled to the back section and the thigh section such that the thigh section moves from the lowered position to the raised position as the back section moves from the lowered position to the intermediate position and such that the thigh section moves from the raised position to the lowered position as the back section moves from the intermediate position to the raised position."

Regarding claim 40, Tekulve does not disclose or suggest in any way, shape or form "a first thigh section drive coupled to the back section and the thigh section to initially raise the thigh section to the raised position and then lower the thigh section to the lowered position in response to movement of the back section from the lowered position to the raised position."

Claims 37-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of U. S. Patent No. 6,643,873. A terminal disclaimer is submitted herewith in compliance with 37 C.F.R. 1.321(c) to overcome the aforesaid double patenting rejection. A check in the amount of \$110.00 to cover the fee for this Terminal Disclaimer is enclosed.

Claims 37-40 are now in condition for allowance and such action is respectfully requested. If the Examiner believes that a telephonic interview would expedite the allowance of this application, he is requested to contact the undersigned for a prompt resolution of any outstanding issues.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages and other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to file 7175-73312. A duplicate copy of this authorization is enclosed.

Respectfully submitted,  
BARNES & THORNBURG



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Mark M. Newman  
Reg. No. 31,472  
(202) 289-1313

FOR INTERVIEW JUN 30 2004

BARNES & THORNBURG

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<i>Customer No.</i>	23643	}
<i>Group:</i>	3673	}
<i>Confirmation No.:</i>	2045	}
<i>Application No.:</i>	10/670,941	}
<i>Invention:</i>	PATIENT SUPPORT APPARATUS HAVING AUTO CONTOUR	}
<i>Inventor:</i>	Richard H. Heimbrock	}
<i>Filed:</i>	September 25, 2003	}
<i>Attorney Docket:</i>	7175-73312	}
<i>Examiner:</i>	Luu, Tuyet Phuong Pham	}

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The owner, Hill-Rom Services, Inc., certifies that it is the assignee of the entire right, title, and interest in the patent application identified above as recorded at Reel/Frame 013044/0525 in the records of the U.S. Patent and Trademark Office. Hill-Rom Services, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on this application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal

disclaimer, of prior U. S. Patent 6,643,873. The owner hereby agrees that any patent so granted on this application shall be enforceable only for and during such period that it and said U. S. Patent 6,643,873 are commonly owned. This agreement runs with any patent granted on this application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the assignee does not disclaim the terminal part of any patent granted on this application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of said U. S. Patent 6,643,873, as presently shortened by any terminal disclaimer, in the event that said U. S. Patent 6,643,873 later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction from which no appeal is, or can be, taken, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

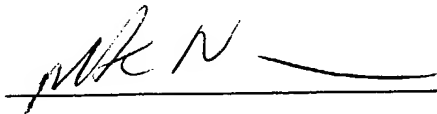
The undersigned is an attorney of record.

A check in the amount of \$110.00 to cover the fee for this Terminal Disclaimer is enclosed.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and that any shortages and other fees be charged, or any overpayment in fees be credited, to the

account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to file 7175-73312. A duplicate copy of this authorization is enclosed for this purpose.

**Signature:**



**Typed or Printed Name:**

Mark M. Newman  
(202)) 289-1313

**Title of Signatory:**

Attorney of Record, Reg. No. 31472

**Date:**

6/29/04